

this title and ending on the date the referendum is conducted under section 6011(a) of this title, the Board shall—

(A) establish an escrow account to be used for assessment refunds; and

(B) place funds in such account in accordance with paragraph (2).

(2) Placement of funds in account

The Board shall place in such account, from assessments collected during the period referred to in paragraph (1), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

(3) Right to receive refund

Subject to paragraphs (4), (5), and (6), any grower, grower-sheller, or importer shall have the right to demand and receive from the Board a one-time refund of assessments paid by or on behalf of such grower, grower-sheller, or importer during the period referred to in paragraph (1) if—

(A) such grower, grower-sheller, or importer is required to pay such assessments;

(B) such grower, grower-sheller, or importer does not support the program established under this chapter;

(C) such grower, grower-sheller, or importer demands such refund prior to the conduct of the referendum under section 6011(a) of this title; and

(D) the plan is not approved pursuant to the referendum conducted under section 6011(a) of this title.

(4) Form of demand

Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Board.

(5) Making of refund

Such refund shall be made on submission of proof satisfactory to the Board that such grower, grower-sheller, or importer paid the assessment for which refund is demanded.

(6) Proration

If—

(A) the amount in the escrow account required by paragraph (1) is not sufficient to refund the total amount of assessments demanded by eligible growers, grower-shellers, or importers; and

(B) the plan is not approved pursuant to the referendum conducted under section 6011(a) of this title;

the Board shall prorate the amount of such refunds among all eligible growers, grower-shellers, and importers who demand such refund.

(7) Program approved

If the plan is approved pursuant to the referendum conducted under section 6011(a) of this title, all funds in the escrow account shall be returned to the Board for use by the Board in accordance with this chapter.

(Pub. L. 101-624, title XIX, §1912, Nov. 28, 1990, 104 Stat. 3848.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6005 of this title.

§ 6008. Petition and review

(a) Petition

(1) In general

A person subject to a plan issued under this chapter may file with the Secretary a petition—

(A) stating that the plan, any provision of the plan, or any obligation imposed in connection with the plan is not in accordance with law; and

(B) requesting a modification of the plan or an exemption from the plan.

(2) Hearings

The petitioner shall be given the opportunity for a hearing on the petition, on the record and in accordance with regulations issued by the Secretary.

(3) Ruling

After such hearing, the Secretary shall make a ruling on the petition, which shall be final if in accordance with law.

(b) Review

(1) Commencement of action

The district courts of the United States in any district in which a person who is a petitioner under subsection (a) of this section resides or carries on business are hereby vested with jurisdiction to review the ruling on such person's petition, if a complaint for that purpose is filed within 20 days after the date of the entry of a ruling by the Secretary under subsection (a) of this section.

(2) Process

Service of process in such proceedings shall be conducted in accordance with the Federal Rules of Civil Procedure.

(3) Remands

If the court determines that such ruling is not in accordance with law, the court shall remand the matter to the Secretary with directions either—

(A) to make such ruling as the court shall determine to be in accordance with law; or

(B) to take such further proceedings as, in the opinion of the court, the law requires.

(4) Enforcement

The pendency of proceedings instituted under subsection (a) of this section shall not impede, hinder, or delay the Attorney General or the Secretary from taking any action under section 6009 of this title.

(Pub. L. 101-624, title XIX, §1913, Nov. 28, 1990, 104 Stat. 3850.)

REFERENCES IN TEXT

The Federal Rules of Civil Procedure, referred to in subsec. (b)(2), are set out in the Appendix to Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6010 of this title.

§ 6009. Enforcement

(a) Jurisdiction

The district courts of the United States shall have jurisdiction specifically to enforce, and to